

(2) [The High Court] may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State III of Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay 1818. Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners XXX IV of Act, 1858.
1850.
II of
1858.

491A. [Powers of High Court outside the limits of appellate jurisdiction.] Rep. by Act 17 of 1949, s 3(14).

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. (1) The 2* * * * *³[4[State] Government] may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors. Power to appoint Public Prosecutors.

(2) 5* * The District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below ⁶[such rank as the ³[4[State] Government] may prescribe in this behalf] to be Public Prosecutor for the purpose of ⁷[any case].

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions. Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

494. Any Public Prosecutor 8* * * * may, with the consent of the court in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person Effect of withdrawal from prosecution.

¹ Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for "Each of the said High Courts".

² The words "G.G. in C. or the" rep. by the A.O. 1937.

³ Substituted by the A.O. 1937 for "L.G.".

⁴ Substituted by the A.O. 1950 for "Provincial".

⁵ The words "In any case committed for trial to the Court of Session" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 133.

⁶ Substituted by s. 133, *ibid.*, for "the rank of Assistant District Superintendent".

⁷ Substituted by s. 133, *ibid.*, for "such case".

⁸ The words "appointed by the G. G. in C. or the L. G." rep. by s. 134, *ibid.*

¶[either generally or in respect of any one or more of the offences for which he is tried] ; and upon such withdrawal,—

(a) if it is made before a charge has been framed, the accused shall be discharged ¶[in respect of such offence or offences] ;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted ¶[in respect of such offence or offences].

Permission
to conduct
prosecution.

495. (1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the ¶[State] Government] in this behalf * * * but no person, other than the Advocate General, Standing Council, Government Solicitor, Public Prosecutor or other Officer generally or specially empowered by the ¶[State] Government] in this behalf, shall be entitled to do so without such permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

In what cases
bail to be
taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail : Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided :

¶[Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4) or section 117, sub-section (3).]

When bail
may be taken
in case of
non-bailable
offence.

497. (1) When any person accused of ¶[or suspected of the commission of] any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of ¶[an offence punishable with death or ¶[imprisonment] for life] :

¹ Inserted by Act 18 of 1923, s. 134.

² Substituted by the A.O. 1937 for "L. G."

³ Substituted by the A.O. 1950 for "Provincial".

⁴ The words "with the previous sanction of the G.G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁵ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 135.

⁶ Inserted by Act 26 of 1955, s. 94(a) (i).

⁷ Substituted by s. 136 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "the offence of which he is accused".

⁸ Substituted by Act 26 of 1955, s. 94(a) (ii), for "transportation".